IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA.

SECOND APPEAL NO. 68 OF 2005
WITH
CIVIL APPLICATION NO. 153 OF 2005

1. Dr. Kashinath Jalmi,
   R/o. A-5, Taj Coop. Housing
   Society, Marcela, Goa.

2. Shri Tulshidas Naik,
   Near Sunandabai Bandodkar
   High School, Corlim, Ilhas, Goa.

3. Shri Rayu D. Naik,
   r/o H. No. 210, Corlim, Ilhas, Goa.

4. Shri Durgadas Gaonkar,
   Dulaper, Corlim, Ilhas, Goa. .... Appellants

Versus

1. Corlim Education Society,
   a Society registered under the Societies
   Registration Act, 1960, through its President
   of the Managing Committee, having office
   at C/o Vidya Niketan High School,
   Corlim, Tiswadi, Goa.

2. Shri Govind B. Parvatkar,
   President of Corlim Education Society,
   having office at Vidya Niketan High School,
   Corlim, Ilhas, Goa.

3. Shri D.D. Mangadkar,
   Executive Secretary of the Managing Committee
   of Corlim Educational Soceity,
   C/o Vidya Niketan High School,
   Corlim, Tiswadi, Goa.

4. Shri Manoj P. Naik, major,
   Vice President of the Managing Committee,
   Corlim Educational Society,
   C/o Vidya Niketan High School,
   Corlim, Tiswadi, Goa.

5. Shri Haridas Jalmi,
   major Treasurer of the Managing Committee,
   Corlim Educational Society,
   C/o Vidya Niketan High School,
   Corlim, Tiswadi, Goa.

6. Shri Pratap Naik, major,
   Executive Member of the Managing Committee,
   Corlim Educational Society,
   C/o Vidya Niketan High School,
   Corlim, Tiswadi, Goa.

7. Shri Vishwanath Naik,
   major, Executive Member of the Managing
   Committee, Corlim Educational Society,
   C/o Vidya Niketan High School,
   Corlim, Tiswadi, Goa.

8. Shri Anand Phadte,
   r/o Mangeral, Carambolim, Ilhas, Goa.

9. Shri Umesh Gauns,
   Agassaim, Mandur, Ilhas, Goa.

10. Shri Mohan Gauns,
    Aesan, Madkai, Ponda, Goa.

11. Shri Raghunath Bandodkar,
    Panvel, Ribander, Ilhas, Goa. ... Respondents

Shri S.D. Lotlikar, Sr. Advocate with Shri M. D'Souza, Advocate for Appellants.
Shri S.G. Dessai, Sr. Advocate with Shri S. Kalshaukar, Advocate for

Respondents no. 1 to 7.
Shri V.A. Lawande, Advocate for Respondents no. 8 to 11.

CORAM : **P.V. KAKADE, J.**

DATE : **6th November, 2006**

ORAL ORDER :

Heard the learned Counsel for the Appellants as well as for Respondents.

2. This is an appeal filed by the appellants against the judgment and order passed by lower appellate Court decreeing the plaintiffs' suit in terms of prayer clause (a) & (b) of the plaint, decreeing the declaration and perpetual injunction against the defendants and reversing the order of dismissal of the suit passed by the trial Court.

3. After hearing the parties for sometime it was clear that considering the nature of reliefs claimed and decreed, the purpose of smooth administration of the Education Institute involved could not be served, on adjudicating the dispute on merits, especially when it is seen that the dispute was with regard to the illegality of the elections of the managing

committee of the Institution which was elected consequent to the meeting held in the year 1997 for the period of 3 years. It was also pointed out by the learned Counsel for both the parties that the next elections are overdue and, therefore, I am satisfied that the entire exercise of adjudication of this matter would only be of academic exercise without serving the very purpose of the relevant rules and laws.

4. Therefore, it was suggested that let the new elections be held under the authority of the Directorate of Education, Government of Goa, as per the rules and constitution of the Institution involved to which the appellants' as well as Advocate for respondents no. 1 to 7 agreed.

5. Mr. Lawande, the learned Counsel of respondents no. 8 to 11 sought to raise objection on the ground that the issue of appointment/election of the Executive Secretary should be determined in this appeal itself. However, it is to be noted that he has filed independent Second Appeal No. 99 of 2005 and that appeal shall be heard on merits and, therefore, this aspect should not deter us from disposing of the present appeal. In view of this position it is agreed that the issue regarding legality of the appointment/election of the Executive Secretary shall be adjudicated

in Second Appeal No. 99 of 2005. However, under no circumstances the matter should be delayed in holding the elections which are overdue, under directions of this Court.

6. Hence, it is directed that the Directorate of Education, Government of Goa shall initiate elections process, supervise and conduct elections on 15th December, 2006 to the new managing committee of Corlim Educational Society and also of the Executive Secretary for the triennum i.e. 16th December, 2006 to 31/03/2009 by adhering to the approved by-laws of the Society. He shall also act as a Returning Officer. Elections should be by secret ballot only. Members who are eligible to vote for the elections are to be enlisted in the list provided by the appellants, who shall constitute the Voters' list and who are enrolled as such on 30/3/1997 as members.

7. Appellants and Respondents no. 2 to 7 should cooperate with the Director of Education in all respects and should offer him inspection of School records or Society records if he so desires within the time stipulated by him. Directorate of Education should hand over management of the Vidya Niketan High School to the newly elected Committee till the date of elections.

8. With these directions, the Second Appeal No. 68 of 2005 is disposed of with no order as to costs. Consequently, Civil Application No. 153 of 2005 also stands disposed of. Copy of this order be kept in Second Appeal No. 99 of 2005.

P.V. KAKADE, J.

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